

STORAGE NAME: h0023.rpp
DATE: January 22, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REAL PROPERTY & PROBATE
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 0023

RELATING TO: Probate

SPONSOR(S): Representative Crow

STATUTE(S) AFFECTED: Amending sections 732.201, 732.205, 732.206, 732.207, 732.208, 732.209, 732.210, 732.211, 732.212, 732.213, 732.214, 732.215, and creating 732.2025, 732.2035 and 732.2045, Florida Statutes

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REAL PROPERTY & PROBATE
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

HB 23 substantially revises the law governing the elective share of the surviving spouse under the probate code. The bill provides for the right to an elective share; determines the property entering into the elective estate; provides for exclusions and overlapping application to the elective share; and, provides for valuation of the elective estate.

The bill also provides that the elective share is the greater of \$50,000 or one-half of the elective estate, or an amount equal to a percentage of the elective estate as determined by a schedule ranging from ten percent to 40 percent depending on the length of the marriage.

The bill provides the sources from which the elective share is payable, and provides for abatement. It also provides for the liability of direct recipients and beneficiaries for contribution toward satisfaction of the elective share. The bill provides for valuation of property used to satisfy the elective share, provides for exercise of the right of election, extensions to elect and withdrawal of the election.

The bill determines the order of contribution, and sets out the personal representative's duty to collect contribution. The bill provides an effective date, describes the effect of prior waivers, and provides transition rules.

The bill will take effect October 1, 1997.

This bill should not have a significant fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The elective share is for the express purpose of caring for the surviving spouse, and not to augment the estate for the benefit of heirs. In re Anderson's Estate, 394 So.2d 1146 (4th DCA 1981).

The Real Property, Probate and Trust Law Section's Augmented Estate Committee of The Florida Bar completed a three-year study of the elective share provisions of the Florida Probate Code. This bill is the result of that study. The panel was composed of representatives from the Elder Law, Tax, Family Law and Real Property, Probate and Trust law sections. According to the committee chair, this issue came about because the proliferation of trusts had made our present statute, which is limited to 30 percent of the probate assets, one in which if a person dies and has no assets held in his or her name alone, with all of the decedent's assets in trust, the decedent could leave the surviving spouse with nothing. As well, under the current statute, a surviving spouse can destroy the decedent's sound estate plan, even if the plan made a provision in trust for the survivor.

Section 732.207, F.S., provides that a surviving spouse may take an elective share of 30 percent of the elective estate, regardless of the length of the marriage. Unless otherwise provided in the will of the decedent, the elective share shall be paid from assets passing under the will which, but for the election, would have passed outright to the surviving spouse and then, to the extent such assets are insufficient from assets in the order prescribed in s. 733.805, F.S.

Pursuant to s. 732.215, F.S., in any case in which the election of the elective share by the surviving spouse shall have the effect of increasing any estate, inheritance, or other death tax, the share of the surviving spouse must bear the additional tax. This provision would be removed under the proposed legislation.

B. EFFECT OF PROPOSED CHANGES:

See SECTION-BY-SECTION ANALYSIS

C. SECTION-BY-SECTION ANALYSIS

Section 1. 732.201 Right to elective share.

Technical changes.

Section 2. 732.2025 Definitions (this is a new section)

(1) "Direct recipient" is defined to mean the decedent's probate estate and any other person who receives property included in the elective estate by transfer from the decedent, including transfers described in subsection (8) of s. 732.2035, F.S., by right of survivorship, or by beneficiary designation under a governing instrument. A beneficiary of an insurance policy on the decedent's life, the net cash surrender value of which is included in the elective estate, is treated as having received property included in the

elective estate. For property held in trust, the trustee is included, but beneficiaries of the trust are excluded.

(2) "Elective share trust" means a trust where:

(a) The surviving spouse is entitled for life to the use of the property or to all of the income payable at least as often as annually;

(b) The trust is subject to the provisions of s. 738.12, F.S., (under-productive property), or the surviving spouse has the right under the terms of the trust or state law to require the trustee either to make the property productive or to convert it within a reasonable time; and

(c) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

(3) "General power of appointment" means a power of appointment under which the holder of the power, whether or not the holder has the capacity to exercise it, has the power to create a present or future interest in the holder, the holder's estate, or the creditors of either. The term includes a power to consume or invade the principal of the trust, but only if the power is not limited by an ascertainable standard relating to the holder's health, education, support, or maintenance.

(4) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with payable-on-death designation, security registered in beneficiary form (TOD), pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

(5) "Payor" means an insurer, business entity, employer, government, governmental agency or subdivision, or any other person, other than the decedent's personal representative or a trustee of a trust created by the decedent, authorized or obligated by law or a governing instrument to make payments.

(6) "Person" includes an individual, trust, estate, partnership, association, company, or corporation.

(7) "Probate estate" means all property wherever located that is subject to estate administration in any state of the United States or in the District of Columbia.

(8) "Revocable trust" means a trust that is includable in the elective estate under subsection (4) of s. 732.2035, F.S.

(9) "Transfer in satisfaction of the elective share" means an irrevocable transfer by the decedent to an elective share trust.

(10) "Transfer tax value" means the value the interest would have for purposes of the United States estate and gift tax laws if it passed without consideration to an unrelated person on the date on which the valuation is to be determined.

--Section 731.201, F.S., currently provides for general definitions, subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts.

Section 3. 732.2035 Property entering into elective estate (this is a new section)

Except as provided in s. 732.2045, F.S., (substantially reworded -- see below), the elective estate consists of the sum of the values as determined under s. 732.205, F.S., of the property interests described in this section.

(1) The decedent's probate estate.

(2) The decedent's ownership interest in accounts or securities registered in POD¹, TOD², ITF³, or coownership with right of survivorship form. For this purpose, "decedent's ownership interest" means that portion of the accounts or securities which the decedent had, immediately before death, the right to withdraw or use without the duty to account to any person.

(3) The decedent's fractional interest in property, other than property described in subsection (2) or subsection (7), held by the decedent in joint tenancy with right of survivorship or in tenancy by the entirety. For this purpose, "decedent's fractional interest in property" means the value of the property divided by the number of tenants.

(4) That portion of property, other than property described in subsection (2), transferred by the decedent to the extent that at the time of the decedent's death the transfer was revocable by the decedent alone or in conjunction with any other person. This does not apply to a transfer that is revocable by the decedent only with the consent of all persons having a beneficial interest.

(5)(a) That portion of property, other than property described in subsection (3), subsection (4), or subsection (7), transferred by the decedent to the extent that at the time of the decedent's death:

1. The decedent possessed the right to, or in fact enjoyed the possession or use of, the income or principal of the property; or
2. The principal of the property could, in the discretion of any person other than the spouse of the decedent, be distributed or appointed to or for the benefit of the decedent.

In the application of this subsection, a right to payments from an annuity or under a similar contractual arrangement shall be treated as a right to that portion of the income of the property necessary to equal the annuity or other contractual payment.

(b) The amount included under this subsection is:

¹An account payable on request to one person during lifetime and on his death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees.

² A security registered in beneficiary form.

³In trust for.

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1. With respect to paragraph (a)1., the value of the portion of the property to which the decedent's right or enjoyment related, to the extent the portion passed to or for the benefit of any person other than the decedent's probate estate; and
2. With respect to paragraph (a)2., the value of the portion subject to the discretion, to the extent the portion passed to or for the benefit of any person other than the decedent's probate estate.

(c) This subsection does not apply to any property if the decedent's only interests in the property are that:

1. The property could be distributed to or for the benefit of the decedent only with the consent of all persons having a beneficial interest in the property; or
2. The income or principal of the property could be distributed to or for the benefit of the decedent only through the exercise or in default of an exercise of a general power of appointment held by any person other than the decedent; or
3. The income or principal of the property is or could be distributed in satisfaction of the decedent's obligation of support; or
4. The decedent had a contingent right to receive principal, other than at the discretion of any person, which contingency was beyond the control of the decedent and which had not in fact occurred at the decedent's death.

(6) The decedent's beneficial interest in the net cash surrender value immediately before death of any policy of insurance on the decedent's life.

(7) The value of amounts payable to or for the benefit of any person by reason of surviving the decedent under any public or private pension, retirement, or deferred compensation plan, or any similar arrangement, other than benefits payable under the federal Railroad Retirement Act or the federal Social Security System. In the case of a defined contribution plan as defined in s. 414(i) of the IRS Code of 1986, as amended, this subsection will not apply to the excess of the proceeds of any insurance policy on the decedent's life over the net cash surrender value of the policy immediately before the decedent's death.

(8) Property that passed during the 1-year period preceding the decedent's death as a result of a transfer by the decedent if the transfer was either of the following types:

(a) Property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the elective estate under subsection (4) or (5) if the right, interest, or power had not terminated until the decedent's death.

(b) A transfer of property to the extent not otherwise included in the elective estate, made to or for the benefit of any person, except:

1. For medical or educational expenses to the extent it qualifies for exclusion from the U.S. gift tax under s. 2503(e) of the IRC, as amended; and
2. After the application of paragraph (b)1., the first \$10,000 of property transferred to or for the benefit of each donee during the 1-year period, but only to the extent the transfer qualifies for exclusion from the U.S. gift tax under ss. 2503(b) or 2503(c) of the IRC.

(c) Except as provided in paragraph (d), for purposes of this subsection:

1. A "termination" with respect to a right or interest in property occurs when the decedent transfers or relinquishes the right or interest, and, with respect to a power over property, occurs when the power terminates by exercise, release, lapse, default, or otherwise.
2. A distribution from a trust, the income or principal of which is subject to subsections (4), (5), or (9), will be treated as a transfer of property by the decedent and not as a termination of a right or interest in, or a power over, property.

(d) Notwithstanding anything in paragraph (c) to the contrary:

1. "Termination" with respect to a right or interest in property does not occur when the right or interest terminates by the terms of the governing instrument unless the termination is determined by reference to the death of the decedent and the court finds a principal purpose for the terms of the instrument relating to the principal purpose for the terms of the instrument relating to the termination was avoidance of the elective share.
2. A distribution from a trust is not subject to this subsection if the distribution is required by the terms of the governing instrument unless the event triggering the distribution is determined by reference to the death of the decedent and the court finds that a principal purpose of the terms of the governing instrument relating to the distribution is avoidance of the elective share.

(9) Property transferred in satisfaction of the elective share.

--Section 732.206, F.S., currently provides that the elective share shall be computed by taking into account all property of the decedent wherever located that is subject to administration except real property not located in Florida.

Section 4. 732.2045 Exclusions and overlapping application (this is a new section)

(1) EXCLUSIONS --s. 732.2035 does not apply to:

(a) Except as provided in subsection (3) of s. 732.215, F.S., any transfer of property by the decedent to the extent the transfer is irrevocable before the effective date of this subsection or after that date but before the date of the decedent's marriage to the surviving spouse.

(b) A transfer of property by the decedent to the extent the decedent received adequate consideration in money or money's worth for the transfer.

(c) A transfer of property by the decedent made with the written consent of the decedent's spouse. For this purpose, spousal consent to split-gift treatment under the U.S. gift tax laws does not constitute written consent to the transfer by the decedent.

(d) The proceeds of any policy of insurance on the decedent's life in excess of the net cash surrender value of the policy whether payable to the decedent's estate, a trust, or in any other manner.

(e) Any policy of insurance on the decedent's life maintained pursuant to a court order.

(f) The decedent's one-half of the property to which ss. 732.216-732.228, F.S., apply and real property that is community property under the laws of the jurisdiction where it is located.

(2) **OVERLAPPING APPLICATION.** If subsection (1) of s. 732.2035, F.S., and any other subsection of s. 732.2035, F.S., apply to the same property interest, the amount included in the elective estate under other subsections is reduced by the amount included under subsection (1). In all other cases, if more than one subsection of section 732.2035, F.S., applies to a property interest, only the subsection resulting in the largest elective estate will apply.

Section 5. 732.205 Valuation of the elective estate (substantially reworded)

Subsections (1) through (5) provide specific direction on when and how to determine the value of certain properties for the elective estate, including insurance policies, various retirement plans, and property transferred during one year preceding the decedent's death. All property not specifically mentioned is valued at its fair market value.

Section 6. 732.206 Elective share amount (substantially reworded)

(1) The elective share is the greater of the minimum elective share provided in subsection (2), or an amount equal to a percentage of the elective estate determined in accordance with the following schedule:

If the decedent and the spouse were last married to each other:

Less than 5 years = 10%
5 years but less than 15 years = 20%
15 years but less than 25 years = 30%
25 years or more = 40%

(2) "**minimum elective share**" means an amount equal to the lesser of \$50,000 or one-half of the elective estate.

--Section 732.207, F.S., currently provides that a surviving spouse may take an elective share of 30 percent of the elective estate, regardless of the length of the marriage.

Section 7. 732.207 Sources from which elective share payable; abatement
(substantial rewording)

(1) Unless otherwise provided in the decedent's will or, in the absence of a provision in the decedent's will, in a trust referred to in the decedent's will, this section sets out how property is to be applied to satisfy the elective share.

(2) If, after the application of subsection (1), the elective share is not fully satisfied, the unsatisfied balance is apportioned among the direct recipients of the remaining elective estate in an order of priority as set out further in this section.

--Section 732.209, F.S., currently provides that unless otherwise provided in the will of the decedent, the elective share shall be paid from assets passing under the will which, but for the election, would have passed outright to the surviving spouse and then, to the extent such assets are insufficient, from assets in the order prescribed in s. 733.805, F.S.

Section 8. 732.208 Liability of direct recipients and beneficiaries (substantial rewording)

(1) Only direct recipients of property included in the elective estate and the beneficiaries of the decedent's probate estate or of any trust that is a direct recipient, are liable to contribute toward satisfaction of the elective share.

(2) Instead of paying the amount for which they are liable, beneficiaries who have received a distribution of property included in the elective estate and direct recipients other than the decedent's probate estate or revocable trusts, may contribute a proportional part of all property received, or with respect to any property interest received before the date of the court's order of contribution, contribute all of the property, or if the property has been sold or exchanged prior to the date on which the spouse's election is filed, pay an amount equal to the value of the property, less reasonable costs of sale, on the date it was sold or exchanged.

(3) If a person pays the value of the property on the date of a sale or exchange or contributes all of the property received, no further contribution toward satisfaction will be required with respect to such property. Any unsatisfied contribution is treated as additional unsatisfied balance and reapportioned to other recipients as provided in s. 732.207, F.S.

(4) If any part of s. 732.2035, F.S., or s. 732.207, F.S., is preempted by federal law with respect to a payment, an item of property, or any other benefit included in the elective estate, a person who, not for value, receives the payment, item of property, or any other benefit is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of that item of property or benefit to the person who would have been entitled to it were that section or part of that section not preempted.

--Section 732.209(2), F.S., currently provides that if property must otherwise be sold to provide the elective share, the person who would otherwise have been entitled to the property may pay the amount assessed against the property interest to the personal representative and receive the property.

Section 9. 732.209 Valuation of property used to satisfy elective share (substantial rewording)

(1) DEFINITIONS

(a) "Applicable valuation date" is specified at different times depending on the kind of property, or the kind of transfer.

(b) "Qualifying power of appointment" is defined to mean a general power of appointment that is exercisable alone and in all events by the decedent's spouse in

favor of the spouse or the spouse's estate. A general power to appoint by will is a qualifying power of appointment if the power may be exercised by the spouse in favor of the spouse's estate without the consent of any other person.

(c) "Qualifying invasion power" means a power held by the surviving spouse or the trustee of an elective share trust to invade trust principal for the health, support, and maintenance of the spouse.

(2) Except as provided in this subsection, the value of property for purposes of s. 732.207, F.S., is the fair market value of the property on the applicable valuation date.

(a) If the surviving spouse has a life interest in property not in trust that entitles the spouse to the use of the property for life, the value of the spouse's interest is one-half of the value of the property on the applicable valuation date.

(b) If the surviving spouse has an interest in a trust, or portion of a trust, that meets the requirements of an elective share trust, the value of the spouse's interest is a percentage of the value of the principal of the trust, or trust portion, on the applicable valuation date as follows:

1. 100% if the trust instrument includes both a qualifying invasion power and a qualifying power of appointment.
2. 80% if the trust instrument includes a qualifying invasion power but no qualifying power of appointment.
3. 50% in all other cases.

(c) For an interest in a trust that does not meet the requirements of an elective share trust, the value of the spouse's interest is the transfer tax value of the interest on the applicable valuation date; provided, the aggregate value of all of the spouse's interests in the trust do not exceed one-half of the value of the trust principal on the valuation date.

(d) In the case of any policy of insurance on the decedent's life, the proceeds of which are payable outright or to a trust described in paragraph (b) or (c), the value of the policy is the net proceeds.

(e) In the case of a right to one or more payments from an annuity or under an annuity or under a similar contractual arrangement or under any plan or arrangement described in s. 732.2035(7), F.S., the value of the right to payments for purposes of s. 732.207, F.S., and paragraphs (b) and (c) of this subsection is the transfer tax value of the right on the applicable valuation date.

--Section 732.207, F.S., currently provides that the elective share consists of an amount equal to 30 percent of the fair market value, on the date of death, of all assets referred to in current s. 732.206, F.S., computed after deducting from the total value of the assets; all valid claims against the estate paid or payable from the estate; and all mortgages, liens, or security interests on the assets.

Section 10 732.210 Effect of election on other interests (substantial rewording)

(1) The elective share is in addition to homestead, exempt property and allowances as provided in part IV.

(2) If an election is filed, the balance of the elective estate, after the application of s. 732.214(1), F.S., will be administered as though the surviving spouse had predeceased the decedent.

--Section 732.208, F.S., currently provides that the elective share shall be in addition to exempt property and allowances as provided in part IV. Current s. 732.211, F.S., is substantially similar to (2) above.

Section 11. 732.211 Protection of payors and other third parties (substantial rewording)

A payor or other third party is not liable for paying, distributing, or transferring the property to a beneficiary designated in a governing instrument, or for taking any other action in good faith reliance on the validity of a governing instrument.

Section 12. 732.212 Right of election; by whom exercisable (substantial rewording)

The right of election may be exercised by the surviving spouse, or, with the approval of the court having jurisdiction of the probate proceeding, by an attorney in fact or guardian of the property of the surviving spouse.

--Section 732.210, F.S., currently provides that the election may be made by the surviving spouse, or by a guardian of the property of the surviving spouse.

Section 13. 732.213 Time of election; extensions; withdrawal (substantial rewording)

(1) Except as provided in (2) below, the election must be filed within the earlier of 6 months of the date of the first publication of notice of administration or 2 years after the date of the decedent's death.

(2) Within the period provided in (1) above, the surviving spouse or an attorney in fact or guardian may petition the court for an extension of time for making the election. The court may, for good cause, extend the time for election.

(3) The surviving spouse or attorney in fact, guardian, or personal representative of the surviving spouse may withdraw an election at any time within 8 months of the decedent's death and before the court's order of contribution. The court may assess attorney's fees and costs against the surviving spouse or the spouse's estate, if the election is withdrawn.

(4) A petition for an extension of the time for making an election or for approval to make the election will toll the time for making the election.

--Section 732.212, F.S., currently provides that the election must be filed within 4 months from the date of the first publication of notice of administration, but, if a proceeding occurs involving the construction, admission to probate, or validity of the will or on any other matter affecting the estate whereby the extent of the estate subject to the

elective share is in doubt, the surviving spouse has 40 days from the date of termination of all the proceedings in which to elect.

Section 14. 732.214 Order of contribution; personal representative's duty to collect contribution (substantial rewording)

(1) The court will determine the elective share and will order contribution. Contributions bear interest at the statutory rate provided in s. 55.03(1), F.S., beginning 90 days from the date of the order. The order is prima facie correct.

(2) Except as provided in subsection (3), the personal representative must collect contribution from the recipients of the elective estate as provided in the court's order of contribution.

(a) The personal representative must withhold from the distribution the contribution required of the beneficiary or trustee, if the property is within the personal representative's possession or control.

(b) The personal representative who obtains a judgment to collect contribution from property not within the personal representative's control will have included in that judgment, the personal representative's costs and reasonable attorney's fees. The personal representative is not required to seek collection of any portion of the elective share from property not within the personal representative's control until after the entry of the order of contribution.

(3) A personal representative may be relieved of a duty to enforce contribution by an order of the court finding that it is impracticable to enforce contribution. The personal representative will not be liable for failure to attempt collection if the attempt would have been economically impracticable.

--It would appear, that even without a court order, the personal representative may still be able to make no attempt to collect the contribution if the attempt would have been "economically impracticable." It is unclear how this determination will be made.

(4) Nothing in this section limits the independent right of the surviving spouse to collect the elective share as provided in the order of contribution.

Section 15. 732.215 Effective date; effect of prior waivers; transition rules.

(1) Sections 732.201-732.215, F.S., are effective October 1, 1997, for all decedents dying on or after October 1, 1998.

(2) A waiver of elective share rights before the effective date of this section in compliance with the requirements of s. 732.2035, F.S., is a waiver of all rights under ss. 732-201-732.214, F.S.

(3) Notwithstanding anything in s. 732.2045(1)(a), F.S., to the contrary, any trust created by the decedent before the effective date of this section that meets the requirements of an elective share trust, is treated as if the decedent created the trust after the effective date of this subsection and in satisfaction of the elective share.

Section 16. This act shall take effect October 1, 1997.

D. APPLICATION OF PRINCIPLES:

1. LESS GOVERNMENT:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes? N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals? N/A

(3) any entitlement to a government service or benefit? N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity? N/A

(2) what is the cost of such responsibility at the new level/agency? N/A

(3) how is the new agency accountable to the people governed? N/A

2. LOWER TAXES:

a. Does the bill increase anyone's taxes? No

b. Does the bill require or authorize an increase in any fees? No

c. Does the bill reduce total taxes, both rates and revenues? No

d. Does the bill reduce total fees, both rates and revenues? No

e. Does the bill authorize any fee or tax increase by any local government? No

3. PERSONAL RESPONSIBILITY:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy? No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation? N/A

4. INDIVIDUAL FREEDOM:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs? This is a modification of the elective share laws. It may be construed to increase the allowable options of individuals in estate planning.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity? No. The bill does modify the current elective share law.

5. FAMILY EMPOWERMENT:

For the limited purpose of this part of the bill analysis, a family is defined as a group of people living in the same household and related to one another by marriage, blood and/or adoption.

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs? N/A
- (2) Who makes the decisions? N/A
- (3) Are private alternatives permitted? N/A
- (4) Are families required to participate in a program? N/A
- (5) Are families penalized for not participating in a program? N/A

- b. Does the bill directly affect the legal rights and obligations between family members? The bill affects estate planning, and thereby affects inheritance rights between family members.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control the program, either through direct participation or appointment authority:

- (1) parents and guardians? N/A
- (2) service providers? N/A
- (3) government employees/agencies? N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

This bill may have some affect on the courts if more surviving spouses take an elective share. The Office of the Court Administrator is currently looking into the judicial impact of this bill.

2. Recurring Effects:

See above.

3. Long Run Effects Other Than Normal Growth:

See above.

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

This bill may have some affect on the courts if more surviving spouses take an elective share. The Office of the Court Administrator is currently looking into the judicial impact of this bill.

2. Recurring Effects:

See above.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Staff Director:

P.K. Jameson

P.K. Jameson